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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

TERRIE L. SMITH
30870 Riverside Drive, Apt. 107
Lake Elsinore, CA 92530

Respiratory Care Practitioner
License No. 18898

Respondent.

Case No. R-2016

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 2, 2006, Complainant Stephanie Nunez, in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs, filed Accusation No. R-2016 against TERRIE L. SMITH (Respondent) before the Respiratory Care Board.

2. On or about September 6, 1996, the Respiratory Care Board (Board) issued Respiratory Care Practitioner License No. 18898 to Respondent. The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2006, unless renewed.

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1 3. On or about March 2, 2006, Jennifer Porcalla, an employee of the
2 Complainant Agency, served Respondent by Certified and First Class Mail with a true and correct
3 copy of the Accusation No. R-2016, Statement to Respondent, Notice of Defense, Request for
4 Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 at her address of
5 record on file with the Board, which was and is 30870 Riverside Drive, Apt. 107, Lake Elsinore,
6 CA 92530. A copy of the Accusation, accompanying documents, and Declaration of Service are
7 attached hereto as Exhibit A and are incorporated by reference as if fully set forth herein.

8 4. Service of the Accusation was effective as a matter of law under the
9 provisions of Government Code section 11505, subdivision (c).

10 5. On or about March 9, 2006, the green postal receipt card was received by
11 the Board from the U.S. Postal Service. The green card was signed indicating receipt of the
12 above-mentioned documents mailed to Respondent at her address of record. A copy of the green
13 signed postal receipt card is attached hereto as Exhibit B and is incorporated by reference as if
14 fully set forth herein.

15 6. Government Code section 11506 states, in pertinent part:

16 “(a) Within 15 days after service of the accusation the respondent may
17 file with the agency a notice of defense in which the respondent may:

18 “(l) Request a hearing.

19 “... .

20 “(c) The respondent shall be entitled to a hearing on the merits if the
21 respondent files a notice of defense, and the notice shall be deemed a specific
22 denial of all parts of the accusation not expressly admitted. Failure to file a notice
23 of defense shall constitute a waiver of respondent's right to a hearing, but the
24 agency in its discretion may nevertheless grant a hearing.”

25 7. Respondent failed to file a Notice of Defense within 15 days after service
26 upon her of the Accusation and, therefore has waived her right to a hearing on the merits of
27 Accusation No. R-2016.

28 8. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

9. Pursuant to its authority under Government Code section 11520, the Board hereby finds Respondent is in default. Accordingly, the Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits A and B, hereby and determines that all of the charges and allegations in Accusation No. R-2016 and each of them separately and severally, are true and correct, and that Respondent has thereby subjected her Respiratory Care Practitioner license to discipline..

10. The Respiratory Care Board further finds that pursuant to Business and Professions Code section 3753.5, the costs of investigation and enforcement of the case prayed for in the Accusation total \$368.00.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent TERRIE L. SMITH has subjected her Respiratory Care Practitioner License No. 18898 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Respiratory Care Board is authorized to revoke Respondent's Respiratory Care Practitioner License based upon the following violations alleged in the Accusation: Business and Professions Code section 3750(d) - conviction of a crime substantially related to the qualifications, functions, and duties of a respiratory care practitioner.

5. Respondent is hereby ordered to pay the above costs of investigation and enforcement of this action in the amount of \$368.00.

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ORDER

IT IS SO ORDERED that Respiratory Care Practitioner License No. 18898, heretofore issued to Respondent TERRIE L. SMITH, is revoked.

Respondent is ordered to reimburse the Respiratory Care Board the amount of \$368.00 for its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility to reimburse the Board for its costs. Respondent's Respiratory Care Practitioner License may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 3753.5 have been paid.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on July 3, 2006.

It is so ORDERED June 2, 2006.

Original signed by:
LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS

Attachments:

Exhibit A: Accusation No.R-2016, Accompanying Documents, and Declaration of Service
Exhibit B: Green Postal Receipt Card